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DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service
Food and Drug Administration

San Francisco District
1431 Harbor Bay Parkway
Alameda, California 94502-7070
Telephone: (510) 337-6700

February 12, 1998

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Our ref: 2952284

Frank N.W. Lu, Chief Executive Officer
Bionike, Inc
1015 Grandview Drive
South San Francisco, CA 94080

WARNING LETTER

Dear Mr. Lu:

An inspection of Bionike, Inc. was conducted on July 22 through August 26, 1997, by Investigator Eric W. Anderson of this office. He determined that your firm manufactures *in vitro* diagnostic kits and reagents, which are devices as defined by Section 201(h) of the Federal Food, Drug, and Cosmetic Act.

The inspection revealed that your firm has shipped hepatitis antibody and antigen test kits or reagents, including HBsAg, HbeAg, HBcIgM, HbeAb, HBsAb, and HBcAb, in domestic commerce. The investigator also documented domestic shipments of various other test kits, including tests for amphetamine, methamphetamine, barbiturates, methadone, benzodiazepines, and PCP. None of these products is the subject of a premarket notification as required by Section 510(k) of the Act. The products are therefore misbranded within the meaning of Section 502(o) of the Act.

Your firm has also exported products under an export certificate issued on the basis of claims that the products met the requirements of Section 801(e) of the Act. However, 801(e) applies only to products which have never been offered for shipment in domestic commerce. Since your products have been shipped in domestic commerce, the export certificate is not valid.

Some products were further found to be misbranded within the meaning of Section 502(f)(1) of the Act in that the labeling fails to bear adequate directions for use. Expiration dates were not determined through reliable, meaningful, and specific test methods, as required by 21 CFR 809.10. The studies that were conducted for expiration dating were not conducted in current packaging.

The inspection also disclosed that the devices have been exported in violation of Section 801(e)(2) of the Act since you did not receive permission from the FDA to export the devices or failed to comply with the export requirements of Section 802 of the Act, in that you have not demonstrated that the export of the devices was in compliance with the requirements outlined in Section 802(b)(1)(A), 802(f), and 802(g) of the Act.

This inspection revealed that these devices are adulterated within the meaning of 501(h) of the Act, in that the methods used in, or the facilities or controls used for manufacturing, packing, storage, or installation are not in conformance with the Good Manufacturing Practice (GMP) Regulation for Medical Devices as specified in Title 21, Code of Federal Regulations (CFR), Part 820. Among other items were failure to validate processes with a high degree of assurance, as required by 21 CFR 820.75. For example, the validations of the machine packaging process, the lyophylization process, and the deionized water system are inadequate.

This letter is not intended to be an all-inclusive list of deficiencies at your facility. It is your responsibility to ensure adherence to each requirement of the Act and regulations. The specific violations noted in this letter and the FDA-483 issued at the conclusion of the inspection may be symptomatic of serious underlying problems in your firm's manufacturing and quality assurance systems. You are responsible for investigating and determining the causes of the violations identified by the FDA. If the causes are determined to be systems problems, you must promptly initiate permanent corrective actions.

Federal agencies are advised of the issuance of all Warning Letters about devices so that they may take this information into account when considering the award of contracts. Additionally, no premarket submissions for devices to which the GMP deficiencies are reasonably related will be cleared until the violations have been corrected. Also, no requests for Certificates For Products For Export will be approved until the violations related to the subject devices have been corrected.

You should take prompt action to correct these deviations. Failure to promptly correct these deviations may result in regulatory action being initiated by the Food and Drug Administration without further notice. These actions include, but are not limited to seizure, injunction, and/or civil penalties.

Please notify this office in writing within 15 working days of receipt of this letter, of the specific steps you have taken to correct the noted violations. Please include in your response an explanation of each step being taken to identify and correct any underlying systems problems which will assure that similar violations will not recur. If corrective action cannot

be completed within 15 working days, state the reason for the delay and the date on which the corrections will be completed.

Your response should be addressed to Suzanne Schenck, Compliance Officer.

Sincerely,

for Patricia C. Ziobro
District Director
San Francisco District